



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF
AIR, WASTE AND TOXICS

APR 10 2014

John Kuterbach
Air Permits Program Manager
Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 303
Juneau, AK 99801-1800

Dear Mr. Kuterbach:

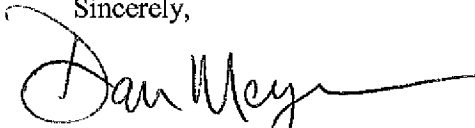
The purpose of this letter is to object to the issuance of the subject proposed renewal Title V operating permit for ConocoPhillips Alaska Inc., Kuparuk Central Production Facility No. 1, located in the Kuparuk River Unit on the North Slope of Alaska, which was received by the Environmental Protection Agency, Region 10 (EPA) electronically on February 25, 2014 (proposed Title V permit). The EPA formally objects, pursuant to our authority under Clean Air Act (CAA) § 505(b)(1), 42 U.S.C. § 7661d(b)(1) and the implementing regulations at 40 Code of Federal Regulations (C.F.R.) § 70.8(c), to the issuance of the proposed Title V permit.

Based on the EPA's review of the proposed Title V permit and supporting information, the permit does not assure compliance with all applicable requirements as required by 40 C.F.R. § 70.6(a)(1) and 18 AAC 50.350(d)(1) and (2) and 50.350(e). Specifically, the proposed Title V permit contains a limit on the applicability of emission limits originating in the EPA-issued Prevention of Significant Deterioration (PSD) permit that is not contained in the PSD permit, which is the underlying applicable requirement. Pursuant to 40 CFR § 70.8(c), the enclosure contains an explanation of the objection issue and the changes necessary to make the permit consistent with the requirements of 40 C.F.R. Part 70 and assure compliance with the requirements of the CAA.

Section 70.8(c) of the Title V regulations requires the EPA to object to the issuance of a proposed Title V permit in writing within 45 days of receipt of the proposed permit and all necessary supporting information if the EPA determines that the permit is not in compliance with the applicable requirements under the CAA or the requirements of 40 C.F.R. Part 70. Under section 70.8(c)(4) of the Title V regulations, and Section 505(c) of the CAA, if the State fails to revise and resubmit a proposed permit within 90 days in response to the objection, the EPA will act accordingly, consistent with the federal program in Part 71. See also 40 CFR 71.4(e).

If you have any questions or wish to discuss this further, please contact me at 206-533-1783. If you have specific questions about the changes necessary to address the EPA's objection, please contact Doug Hardesty in our Boise office at 208-378-5759.

Sincerely,


FOR Donald A. Dossett, Manager
Air Permits and Diesel Unit

Enclosure

Enclosure
The EPA Region 10 Title V Operating Permit Objection Letter to the ADEC
for ConocoPhillips Alaska Inc., Kuparuk Central Production Facility No. 1
Permit #AQ0267TVP02

This proposed permit, submitted to the Environmental Protection Agency Region 10 (EPA) on February 25, 2014, is a renewal permit that will replace Air Quality Operating Permit #AQ0267TV01 (issued April 28, 2003, and expired May 27, 2008). The Alaska Department of Environmental Conservation (ADEC) originally submitted the proposed renewal permit to the EPA on October 11, 2013. The ADEC withdrew the October proposed renewal permit on November 1, 2013, to make changes that are the subject of this objection. The EPA's 45-day objection period ends on April 11, 2014.

Basis for Objection

Objection Issue – The ADEC inappropriately used the Title V permit to revise requirements originating in a PSD permit issued by the EPA.

The EPA issued PSD permit #PSD-X82-01 for the Kuparuk Central Production Facility No. 1 on December 29, 1981, and revised the PSD permit on October 7, 1997 (as so revised, the "Kuparuk PSD permit"). The Kuparuk PSD permit included best available control technology or "BACT"-based emission limits. On April 28, 2003, the ADEC issued Operating Permit #AQ0267TVP01 with the following footnotes added to the table of PSD emission limits (Table 2 - Turbine BACT Emission Limits for Source ID(s) 1 through 3, and 8 through 13):

- 1) All emission limitations are annual average unless otherwise noted.
- 2) All turbine emission limits for NO_x refer to full load, ISO conditions.
- 3) All other emission limits refer to full load, standard conditions.

Footnotes #2 and #3 effectively restrict the PSD emission limits to only those periods when the turbines are operating at full load. The proposed renewal permit, sent to the EPA on October 11, 2013, appropriately removed the footnotes from the table of PSD emission limits; however, the ADEC withdrew that proposed renewal permit before the end of the EPA's 45-day review period. The revised proposed renewal Title V permit the ADEC submitted to the EPA on February 25, 2014, once again contains the footnotes (as footnotes #3 and #4).

Inclusion of footnotes #3 and #4 in the proposed renewal Title V permit is inconsistent with the requirements of Title V:

1. A source subject to Title V must have a Title V permit that assures compliance with applicable requirements of the Clean Air Act (CAA), including the requirements of the applicable state implementation plan. CAA § 504(a), 42 U.S.C. § 7661c(a); see also 40 C.F.R. § 70.1(b). The EPA's Title V regulations define applicable requirements to include "[a]ny term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated under Title I, including parts C or D, of the Act." 40 C.F.R. § 70.2. See *In the Matter of Consolidated Environmental Management, Inc. – Nucor Steel Louisiana*, Order Responding to the Petitioner's Request that the Administrator Object to Issuance of Title V Operating Permits, March 3, 2012 (Nucor Steel), at p. 15. The emission limits in the Kuparuk PSD permit are applicable requirements which must be included in the Title V permit.

2. Emission limits originating in a previously-issued PSD permit cannot be revised in a Title V permit without first (or simultaneously) revising the PSD permit under the applicable PSD regulations. See Letter from J. Seitz, EPA, to R. Hodanbosi and C. Lagges, STAPPA/ALAPCO (May 20, 1999), Enc. A at 4; Nucor Steel, at pp. 15-16. In this case, the applicable PSD regulations are the federal PSD regulations because the Kugaruk PSD permit was issued by the EPA. The federal PSD regulations, 40 CFR 52.21, do not include provisions for amending or revising permits. However, the EPA has issued guidance over the years with respect to revising federal PSD permits, including guidance specifically directed at revising BACT limits. See the November 19, 1987, Memorandum titled "Request for Determination on Best Available Control Technology (BACT) Issues — Ogden Martin Tulsa Municipal Waste Incineration Facility." If the ADEC or ConocoPhillips believe that the limits established in the Kugaruk PSD permit are inappropriate as a result of errors, faulty data, or incorrect assumptions contained in the permit application and the other elements of the guidance are met, ConocoPhillips may request the EPA to revise the Kugaruk PSD permit after which any revised PSD permit terms would be reflected in the facility's Title V permit. Until then, the Title V permit must include the emission limits as they exist in the current Kugaruk PSD permit.

3. The EPA has not delegated the ADEC authority to amend the Kugaruk PSD permit which, in this instance, was issued by the EPA before the ADEC had an approved PSD program. The fact that the EPA, and not the ADEC, issued the October 1997 revision of the Kugaruk PSD Permit is consistent with this understanding. Unless and until the EPA transfers the authority to the ADEC to revise specific EPA-issued PSD permits, only the EPA can revise such permits.

4. The EPA has long maintained that PSD BACT limits apply at all times, unless the permitting authority (the EPA in this case) establishes alternative BACT limits for periods of startup or shutdown, and justifies such limits as part of a complete BACT analysis. *In re RockGen Energy Center*, 8 E.A.D. 536, 554 (August 25, 1991). The same holds true for alternative operating rates. Unless and until the EPA revises the Kugaruk PSD permit to establish alternative BACT limits for periods of differing operating rates, the existing BACT limits apply at all times and must be incorporated as such into the facility's Title V permit.

Remedy

To remedy this deficiency, the ADEC must revise the proposed renewal Title V permit by removing footnotes #3 and #4 from the table of PSD emission limits so that the renewal Title V permit accurately reflects the applicable requirements from the Kugaruk PSD permit. The ADEC must also revise the statement of basis to explain this change.